

IN THE SUPREME COURT OF THE STATE OF MONTANA

CASE No. DA 10-0191

RENEE NEARY, as parent and guardian of
Dylan Dallaserra; KRISTI LUCAS and
ALICE JEAN SPEARE; each individually
and as representative members of a class of
similarly situated plaintiffs,

Appellees/Plaintiffs,

v.

BLUE CROSS AND BLUE SHIELD OF
MONTANA, INC., a Montana licensed
health service corporation; and
MONTANA COMPREHENSIVE
HEALTH ASSOCIATION,

Appellees/Defendants.

BRITTANY C. SMITH, individually and as
a member of a similarly situated class,

Appellees/Plaintiffs,

v.

BLUE CROSS AND BLUE SHIELD OF
MONTANA, INC., a Montana licensed
health service corporation,

Appellee/Defendant.

FILED

MAY 10 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

**RESPONSE TO JOINT
MOTION TO DISMISS**

**On Appeal from the Montana Second Judicial District Court
Silver Bow County
Honorable Bradley Newman
Cause Nos. DV-08-553 and DV-09-401**

ATTORNEYS OF RECORD

James G. Hunt
Jonathan McDonald
DIX, HUNT & McDONALD
310 Broadway
Helena, MT 59601
Telephone: (406) 442-8552

Jory Ruggerio
J. Breting Engel
WESTERN JUSTICE ASSOCIATES
303 West Mendenhall, Suite I
Bozeman, MT 59715
Telephone: (406) 587-1900

Erik B. Thueson
THUESON LAW OFFICE
P. O. Box 280
Helena, MT 59624-0280
Telephone: (406) 449-8200
Attorneys for Appellants/Intervenors/Applicants Tyson Pallister, Kevin Budd, Jeanette Diaz, and Jessica Normandeau

Robert G. McCarthy
MCCARTHY LAW, P.C.
3738 Harrison Avenue
Butte, MT 59701
Attorney for Appellees/Plaintiffs Renee Neary, as parent and guardian of Dylan Dallaserra; Kristi Lucas; Alice Jean Speare; and Brittany Smith

Jacqueline T. Lenmark
KELLER, REYNOLDS, DRAKE, JOHNSON
& GILLESPIE, P.C.
P. O. Box 598
Helena, MT 59624-0598
Attorneys for Appellee/Defendant Montana Comprehensive Health Association


Michael F. McMahon
MCMAHON LAW FIRM, PLLC
212 North Rodney
Helena, MT 59601
Telephone: (406) 442-1054
Attorneys for Appellee/Defendant Blue Cross and Blue Shield of Montana, Inc.

COMES NOW Appellants/Intervenors, and hereby concede that Kristi Lucas's, Alice Jean Speare's, Brittany C. Smith's, Montana Comprehensive Health Association's, and Blue Cross and Blue Shield of Montana, Inc.'s Joint Motion to Dismiss is well-taken, and therefore agree to the dismissal of the appeal. Upon dismissal of the appeal, Applicants will petition this Court for a writ of supervisory control. *Continental v. Bottomly*, 233 Mont. 277 (1988), and *State ex.rel. Palmer v. District Court*, 190 Mont. 185 (1980).

DATED this 10th day of May, 2010.

DIX, HUNT & McDONALD

BY: _____


JAMES G. HUNT, Attorneys
for Appellants/Intervenors

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 10th day of May, 2010, I have filed a true and accurate copy of the foregoing **RESPONSE TO JOINT MOTION TO DISMISS** with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing **RESPONSE TO JOINT MOTION TO DISMISS** upon the Clerk of the Second Judicial District Court, Silver Bow County, Montana, and each attorney of record, by First Class U.S. mail, addressed to the following:

Ms. Lori Maloney
Clerk of District Court
155 W. Granite St., Rm. 313
Butte, MT 59701

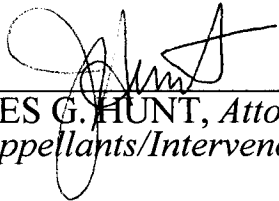
Robert G. McCarthy
MCCARTHY LAW, P.C.
3738 Harrison Avenue
Butte, MT 59701

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KELLER, REYNOLDS, DRAKE, JOHNSON
& GILLESPIE, P.C.
P. O. Box 598
Helena, MT 59624-0598

Michael F. McMahon, Esq.
MCMAHON LAW FIRM, PLLC
212 North Rodney
Helena, MT 59601

DIX, HUNT & McDONALD

BY: _____


JAMES G. HUNT, Attorneys
for Appellants/Intervenors